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Patent

#### REMARKS

Claims 1-23 are pending in the application; all claims were rejected.

Claims 1 and 9 have been amended as set forth herein.

The current amendments add the word "either" to clearly delineate the alternative "or" language. While applicant believes that the previous language was sufficiently clear by 112 standards, the Examiner indicated confusion. Applicant respectfully requests that this amendment be entered even after final rejection, as it clarifies the issues for appeal.

#### CLAIM REJECTIONS -- 35 U.S.C. §112

Claims 1, 9 were rejected under 35 U.S.C. § 112, first paragraph as containing subject matter not described in the specification in such a way to enable one skilled in the art to make or use the invention.

In the previous amendment, the undersigned specifically requested that the Examiner telephone the undersigned attorney for a telephone interview, before issuing a final Office Action, to discuss these particular distinguishing claim limitations. The undersigned is disappointed the Examiner could not extend this courtesy. The operation of the disclosed embodiments differs significantly from the cited prior art, and the undersigned would be happy to discuss alternative claim language, acceptable to the Examiner, to distinguish over the art.

Claim 1, as amended, requires "signaling to the other members of the user group that the first member has accepted the first call initiation request without first requiring either that

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a signal be received from another member of the user group that requests a call initiation or that indicates acceptance of the first call initiation request."

Claim 9, as amended, requires "signal the other members of the user group that the first member has accepted the first call initiation request without first requiring either that a signal be received from another member of the user group that requests a call initiation or that indicates a desire to accept the first call initiation request."

These nearly-identical limitations are both fully supported in the specification, *e.g.*, at 0025. This paragraph indicates

[0025] First member 21 may decide to accept the call initiation request and may send acceptance signal 133 over network 10 to call management system 40. Upon receipt of this acceptance signal, call management system 40 may connect a first call 144 over network 10 between first member 21 and communication device 31. Call management system may also send acceptance notification 155 over network 10 to the members, other than first member 21, of user group 20. The acceptance notification 155 may include the identity of the member that accepted the call initiation request, and the wireless telephones that receive the acceptance notification may display the fact that the call has been accepted and the identity of the accepting member on a screen.

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Similarly, paragraph 0030 indicates:

When an acceptance notification has been received from a first member of the user group, the call management system connects a call between the initiating party and the first member (404). The call management system then signals the other members of the user group that the first member has accepted the first call initiation request (405).

Note that, as clearly described above, the call management system signals the other members of the user group that the first member has accepted the first call initiation request, and does so automatically, without first requiring that a signal be received from another member of the user group that requests a call initiation or that indicates a desire to accept the first call initiation request. Other support for this claim language can be found, e.g., in 0026, and elsewhere in the specification.

Note also that whether or not a signal is received from another member of the user group, the description of the operation of these embodiments, in the passages cited above, clearly indicates that no such signal is required.

The final Office Action alleges that these limitations are unsupported, by referencing a passage in the current specification that indicates that "a second member of the group may send a second call initiation request while the first call is in progress." This description is not contradictory – it clearly indicates that it is possible for the second member to send "second call indication request", but is not required.

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With regard to negative limitations, such as those added in the previous response, MPEP 2173.05(i) states, in relevant part, "The mere absence of a positive recitation is not basis for an exclusion. .... Note that a lack of literal basis in the specification for a negative limitation may not be sufficient to establish a prima facie case for lack of descriptive support." While the specification does not specifically recite that certain signals from another group member are not required, a plain reading of the operation of the disclosed embodiments indicate that these signals are not required. Indeed, if, on the other hand, these signals were required, as they appear to be in the cited art, this would be clearly described in the specification.

**CLAIM REJECTIONS -- 35 U.S.C. §102**

Claims 1-3, 5, 7, 9-11, 13, 15, 18, 19, 21, and 22 were rejected as being anticipated by Alfred (USP 6,393,275, hereinafter "Alfred").

Applicant again notes that the earliest effective filing date of this application is December 11, 2000, which is after November 29, 2000, not before it as the Office Action states. The changes to 35 USC § 102 (e) are not believed to impact the analysis below, but Applicant questions why the Examiner repeatedly misstates the status of this application.

With regard to claims 1, 7, 9, and 15, and their respective dependent claims (and so including claims 1-17), the limitations regarding "signaling to the other members of the user group that the first member has accepted the first call initiation request without first requiring either that a signal be received from another member of the user group that requests a call

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initiation or that indicates acceptance of the first call initiation request" are not taught or suggested at all by Arthur.

While the Office Action is correct in noting that Alfred does not require these signals for call setup with the first responding cellular phone, it is incorrect in its conclusion that "consequently the 'line in use' does not require response signals from other members." On the contrary, the Examiner's immediate following statement is much more correct: "When the other cellular phones try to respond after the first member responded to the call, the other cellular phone receive 'line in use' message indicating the call has been accepted."

As understood by those of skill in the art, the only way a cellular phone can "try to respond" is by sending a signal that requests a call initiation or indicates acceptance of the call initiation request. That is, the only way a cellular phone can respond to a call or "try to respond" is by sending a signal indicating that it is attempting to do so, which is then "received" in accordance with the current claims.

It is clear from Alfred's disclosure that the only time the cellular phones receive a "line in use" message is when they attempt to place or answer a call, which necessarily means that they are sending a signal. While the precise language used to describe this process differs between the present specification and claims and Alfred's disclosure, those of skill in the art recognize that a similar process is being described. Where Alfred requires that the second phone "try to respond" before receiving a "line in use" indicator, it is clear that the second phone must send a signal, which then must be received by the base station, before it receives the "line in use" signal. This is in direct contrast to the current claims, where (to

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use the terms Alfred uses) the second phone receives a line in use signal automatically when the call is set up with the first responding telephone, without requiring the second phone to first try to respond.

Again, if the Examiner believes that other claim language would be helpful to more clearly describe this difference, the undersigned would be happy to discuss it, and requests that the Examiner telephone.

With regard to claim 18, Alfred does not appear to teach or suggest first, second, and third signals as claimed. While the claimed "first signal" is arguably met by the call setup signal described in col. 5 lines 6-9, there does not appear to be a teaching or suggestion of the second and third claimed signals. While the "line in use" message described by Alfred could arguably satisfy either the claimed second or third claimed signal, as the "line in use" signal is sent after the first responding telephone responds and the call is set up with the first responding telephone, there is no teaching in Alfred that two different signals are sent – a "second signal" when the call is accepted by another telephone and a "third signal" when the call is set up with the other telephone. Nor is this claimed feature taught or suggested by the other art of record.

As such, independent claim 18, as filed, distinguishes over Alfred and all other cited art, and claims 18-20 should be allowed.

The same argument as stated above with regard to claim 18 applies to claim 21, substituting "input" for "signal" in the claim language, and so independent claim 21, as filed, distinguishes over Alfred and all other cited art, and claims 21-23 should be allowed.

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Applicant respectfully notes that the final Office Action does not address these distinctions of claims 18-23 at all.

**CLAIM REJECTIONS -- 35 U.S.C. §103**

Claims 4, 6, 12, and 14 were rejected as obvious over Alfred in view of Jonsson (USP 6,115,613, hereinafter "Jonsson"). Claims 8, 20, and 23 were rejected as obvious over Alfred in view of Grube *et al.* (USP 5,463,617, hereinafter "Grube"). Claim 16 was rejected as obvious over Alfred in view of Ahya *et al.* (USP 6,600,928, hereinafter "Ahya"). Claim 17 was rejected as obvious over Alfred in view of Rosenthal *et al.* (USP 5,953,400, hereinafter "Rosenthal").

All rejections are traversed, as described below.

With regard to claims 4, 6, 8, 12, 16, 17, and 14, each of these claims depend from one of the independent claims argued above with regard to the anticipation rejections. The distinguishing features discussed above with regard to Alfred are also not taught or suggested by Jonsson, Grube, Ahya, or Rosenthal, alone or in combination. As such, all of claims 1-17 distinguish over all cited art and are believed to be allowable.

In particular with regard to the rejection of claims 4 and 12, the Office Action relies on "Official Notice" taken by the Examiner. The Examiner is respectfully requested, as required by 2144.03, to support this Official Notice with documentary evidence, as it is not clear that it is well known that a second member of the particular grouping described by

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Jonsson can respond in that particular way. The Examiner is requested to provide this documentary evidence prior to appeal.

With regard to claims 20 and 23, the distinctions described above with regard to Alfred apply, and these limitations are also not taught by Grube or any other cited art, alone or in combination.

Other significant distinctions over the cited art remain, but need not be argued as all claims have been distinguished over the cited art.

Thus, all rejections are traversed. Reconsideration and allowance of all remaining claims is respectfully requested.



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CONCLUSION

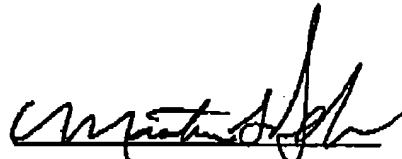
As a result of the foregoing, the Applicant asserts that the Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *manderson@davismunck.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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